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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
4 ATTICUS LIMITED LIABILITY
5 COMPANY,

6 Plaintiff, 22 Civ. 10147(DLC)
7 and
8 AARON SORKIN, Conference

9 Involuntary Plaintiff,
10 v.

11 THE DRAMATIC PUBLISHING
12 COMPANY,

13 Defendant.

14 -----x

15 New York, N.Y.
16 May 25, 2023
17 11:00 a.m.

18 Before:

19 HON. DENISE L. COTE,

20 District Judge

21 APPEARANCES

22 LOEB & LOEB LLP
23 Attorneys for Plaintiff
24 BY: JONATHAN ZAVIN
25 WOOK HWANG

FRANKFURT KURNIT KLEIN & SELZ PC
Attorneys for Involuntary Plaintiff
BY: MAURA J. WOGAN
NICOLE BERGSTROM

TOTTISLAW
Attorneys for Defendant
BY: KEVIN TOTTIS

GOODWIN PROCTER LLP
Attorneys for Defendant
BY: STEFAN M. MENTZER

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(Case called)

MR. ZAVIN: Jonathan Zavín, Loeb & Loeb.

MR. ZAVIN: Your Honor, Wook Hwang, Loeb & Loeb for Atticus.

THE DEPUTY CLERK: For Involuntary Plaintiff Sorkin.

MS. WOGAN: Mora Wogan from Frankfurt Kurnit.

MS. BERGSTROM: Nicole Burgstrom, from Frankfurt Kurnit.

THE DEPUTY CLERK: For Dramatic Publishing.

MR. TOTTIS: Kevin Tottis, your Honor.

MR. MENTZER: Stefan Mentzer from Goodwin Procter.

THE COURT: Thank you so much.

I issued an opinion towards the end of April and roughly a month away and this is a conference to determine next steps. I believe the only issue is what discovery, if any, needs to be undertaken with respect to the privity argument. Counsel have submitted letters to me, the defendant of May 22, and the plaintiff of May 24 in preparation for this conference. There is obviously a problem for the parties given what I found was the error in the arbitrator's decision in Illinois, and that's working its way through the court system in Illinois, the federal court system. And I was pleased to learn that there are settlement discussions ongoing in the Seventh Circuit. It didn't appear that there are three-way conversations, and I don't know that that would be appropriate.

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1 that we needed in response to a summary judgment motion before
2 an answer or affirmative defenses had been filed that we needed
3 to list every single affirmative defense we might ultimately
4 raise. And affirmative defense has been characterized as a
5 failure to state a claim. And we are entitled to make those
6 arguments at any point during the litigation.

7 THE COURT: So I'm not sure that given the procedural
8 posture here that your defenses haven't been waived. But for
9 purposes of our discussion, the one defense you want to pursue
10 is statute of limitations. Am I right?

11 MR. TOTTIS: That's correct.

12 THE COURT: So let's set a schedule for that right
13 now. So can you file that next Friday?

14 MR. TOTTIS: Yes, your Honor.

15 There was just one point that we would need, and I
16 don't think it's going to be a problem. There's a transmittal
17 letter from Mr. Lembke to Mr. Zavin saying attached is the
18 demand. Obviously, we don't have -- if Mr. Zavin will
19 stipulate that he received a copy of the arbitration demand on
20 March 7, 2019, there is no need to get that from discovery for
21 something. I don't think it's going to be disputed.

22 MR. ZAVIN: Your Honor, it is not disputed. I will
23 stipulate that I received a copy of the arbitration demand at
24 or about the time that it was filed. I don't know of the exact
25 date.

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1 THE COURT: Thank you.

2 And so June 9 for opposition. And June 14 for reply.

3 And I'm not ruling in setting this motion schedule on
4 the waiver theory. If the plaintiff wants to argue waiver,
5 that's just fine with me. I'm just trying to give the parties
6 the litigation piece here and put you in a position to settle
7 things universally hopefully or take it up to the next level to
8 give you some finality.

9 MR. ZAVIN: I appreciate that, your Honor.

10 THE COURT: Yes.

11 So, Mr. Tottis, is there anything else? Anything
12 other open issue before I talk about process for settlement?

13 MR. TOTTIS: No, your Honor. I would just add to
14 maybe move the settlement discussion forward. I confirmed
15 jointly with Mr. Zavín on the email, I confirmed with Judge
16 Aaron, that the referral is still open. We did have email
17 exchanges. So at least from his viewpoint, the referral is
18 still open and we can go to him should we have the need.

19 THE COURT: Thank you.

20 So I take it there is no other issue, Mr. Tottis,
21 we need to address?

22 MR. TOTTIS: No. Thank you, your Honor.

23 THE COURT: Thank you. So we are going to go off the
24 record.

25 (Adjourned)